

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DONALD DELONEY,

Plaintiff,

v.

RICHARD SNYDER, *et al.*,

Defendants.

Case No. 3:16-cv-00732-MMD-WGC

ORDER REGARDING REPORT AND
RECOMMENDATION OF
MAGISTRATE JUDGE
WILLIAM G. COBB

I. SUMMARY

Before the Court is the Report and Recommendation of United States Magistrate Judge William G. Cobb (ECF No. 19) (“R&R”) relating to Plaintiff’s motion for preliminary injunction (ECF No. 10). The Court has reviewed Plaintiff’s objection (ECF No. 20) and Defendant’s response (ECF No. 23).

II. BACKGROUND

Plaintiff is an inmate in the custody of the Nevada Department of Corrections (“NDOC”) and is currently housed at the Northern Nevada Correctional Center. The events giving rise to this action occurred while Plaintiff was incarcerated at Warm Springs Correctional Center (“WSCC”). In the motion for preliminary injunction, Plaintiff alleges that, on May 2, 2017, Snyder suspended all Muslim services in the chapel until he could find an outside volunteer to lead the Muslim services. (ECF No. 10 at 2, 9.) According to Plaintiff, there has never been a need in the NDOC to have an outside imam conduct Jumah services. (*Id.* at 2.) Plaintiff states that the pagan inmates are not required to have an outside sponsor come in to conduct their services. (*Id.* at 6.)

1 The Magistrate Judge recommends that the motion for preliminary injunction
2 (ECF No. 10) be denied as moot. (ECF No. 19 at 4). In the R&R, the Magistrate Judge
3 found:

4 Plaintiff's motion should be denied as moot. In his response to Plaintiff's
5 motion, defendant Snyder states in his declaration that Plaintiff was
6 transferred to [NNCC] in July of 2017. (ECF No. 18-1 at 2 ¶ 4.) Claims for
7 injunctive relief related to a prison's policies are moot where a prisoner has
8 been transferred to another facility and shows no reasonable expectation
9 of return. *Johnson v. Moore*, 948 F.2d 517, 522 (9th Cir. 1991) (per
10 curiam). Plaintiff did not file a reply brief indicating there was any
reasonable expectation he would be sent back to WSCC and subject to the
alleged ban on Muslim services. See *Murphy v. Hunt*, 455 U.S. 478, 482
(1982) (exception to mootness that case is capable of repetition yet
evading review limited to circumstances where there is a reasonable
expectation that the same complaining party would be subject to the same
action again).

11 (*Id.*)

12 **III. LEGAL STANDARD**

13 This Court "may accept, reject, or modify, in whole or in part, the findings or
14 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party
15 timely objects to a magistrate judge's report and recommendation, then the court is
16 required to "make a *de novo* determination of those portions of the [report and
17 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). In light of Plaintiff's
18 objections, the Court has engaged in a *de novo* review to determine whether to adopt
19 Magistrate Judge Cobb's recommendations.

20 **IV. DISCUSSION**

21 The Court agrees with the Magistrate Judge's recommendation to deny Plaintiff's
22 motion for preliminary injunction (ECF No. 10) as moot. Plaintiff's 22-page objection
23 focuses on the merits of his constitutional claims but does not address the mootness
24 issue related to his motion for preliminary injunction. (See *generally* ECF No. 20).
25 Plaintiff does not deny his prison transfer but argues that the transfer happened after the
26 harm occurred at WSCC. (*Id.* at 3).

27 The Court accepts and adopts the R&R in full. Plaintiff has not argued that he has
28 a reasonable expectation of returning to WSCC and will again be subjected to the


1 alleged ban on Muslim services. As such, the Court denies the motion for preliminary
2 injunction (ECF No. 10) as moot.

3 **V. CONCLUSION**

4 It is therefore ordered, adjudged and decreed that the Report and
5 Recommendation of Magistrate Judge William G. Cobb (ECF No. 19) is accepted and
6 adopted in full.

7 It is further ordered that the motion for preliminary injunction (ECF No. 10) is
8 denied as moot.

9 DATED THIS 29th day of December 2017.

10
11 
12 _____
13 MIRANDA M. DU
14 UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28